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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

AUGHENBAUGH, WALTER

ART UNIT PAPER NUMBER

1772

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/762,677

Applicant(s)

COURT ET AL.

Examiner

Walter B Aughenbaugh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 24, 2004 (Amdt. E) has been entered.

Acknowledgement of Applicant's Amendments

2. The amendments made in claims 9, 19 and 20 in the Amendment filed November 24, 2004 (Amdt. E) have been received and considered by Examiner.
3. The amendments made in the abstract in Amdt. E have been received and considered by Examiner.

WITHDRAWN REJECTIONS

4. The 35 U.S.C. 112 rejection of claims 19 and 20 that was repeated in paragraph 10 set forth in the previous Office Action mailed May 24, 2004 has been withdrawn due to Applicant's amendments in claims 19 and 20 in Amdt. E.
5. The 35 U.S.C. 112 rejection of claim 9 made of record in paragraph 13 set forth in the previous Office Action mailed May 24, 2004 has been withdrawn due to Applicant's amendments in claim 9 in Amdt. E.

REPEATED REJECTIONS

6. The 35 U.S.C. 103 rejection of claims 1, 2, 8-11, 13, 15, 16, 18 and 21-23 that was repeated in paragraph 11 set forth in the previous Office Action mailed May 24, 2004 has been repeated for the reasons previously made of record.

7. The 35 U.S.C. 103 rejections of claims 3-7, 12, 14, 17, 19 and 20 that were repeated in paragraph 12 set forth in the previous Office Action mailed May 24, 2004 have been repeated for the reasons previously made of record.

8. The 35 U.S.C. 103 rejection of claim 24 made of record in paragraph 14 set forth in the previous Office Action mailed May 24, 2004 has been repeated for the reasons previously made of record.

RESPONSE TO APPLICANT'S ARGUMENTS

9. Applicant's arguments regarding the 35 U.S.C. 103 rejection of claims 1, 2, 8-11, 13, 15, 16, 18 and 21-23 that was repeated in paragraph 11 set forth in the previous Office Action mailed May 24, 2004 presented on pages 7-10 of Amdt. E have been fully considered but are not persuasive.

Applicant argues that Witschard does not teach the claimed A block, which is claimed as being compatible with the claimed fluoro-resin, in the first paragraph of page 8 of Amdt. E. However, as made of record in paragraph 15 of Paper 15, Witschard teaches the claimed A block at col. 8, lines 32-44. A block that corresponds to block A as claimed by Applicant falls within the scope of the teaching of Witschard at col. 8, lines 32-44: the lower alkyl ester of acrylic acid taught by Witschard at col. 8, lines 40-43 is compatible with the fluoro-resin, as evidenced at col. 12, lines 30-34.

In the paragraph bridging pages 8 and 9 of Amdt. E, Applicant makes textbook citations to support the argument that since “the use of” an alkyl ester of an acrylate or methacrylate “requires special handling and techniques” Witschard does not teach the claimed A block, but Applicant’s textbook citations serve only to establish that one of ordinary skill in the art recognizes that the triblock copolymer claimed by Applicant can be formed under known favorable polymerizations conditions, e.g., in Applicant’s words, “using specified initiators, solution concentration and reaction temperatures” in the case of polymethylmethacrylate.

In the first full paragraph of page 9 of Amdt. E, Applicant argues that Witschard’s use of the term “comonomer units” in line 39 of col. 8 excludes a block of these comonomer units from scope of the teaching of Witschard, but the term “comonomer units” in fact includes the condition where the comonomer units are polymerized as a block. The “a” monomers, “b” monomers and “c” monomers which are polymerized to form an ABC triblock copolymer are all comonomers; one of ordinary skill in the art recognizes this. When read in the context of the condition where the comonomer units are polymerized to form a block of a triblock copolymer (a condition which falls within the scope of Witschard), the term “minor proportions” indicates that that particular block is smaller than the other two blocks of the triblock copolymer. In the last sentence of the first full paragraph of page 9 of Amdt. E, Applicant argues that Witschard “simply fail[s] to teach the use of an incompatible A block”, but as made of record in paragraph 15 of Paper 15, the A block is incompatible with the B and C blocks since the A block is polar, and the B and C blocks are nonpolar.

In the second full paragraph of page 9 of Amdt. E, Applicant argues that Witschard does not teach lower alkyl esters of methacrylic acid at col. 8, lines 32-44 because methacrylic acid is

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not an acrylic acid, but methacrylic acid is indeed an acrylic acid. Also note that Witschard teaches that polymers of a lower alkyl ester of acrylic acid or methacrylic are compatible with the fluororesin at col. 12, lines 30-34, and that Witschard teaches lower alkyl esters of acrylic acid at col. 8, lines 40-43, so the block taught by Witschard at col. 8, lines 35-44 is compatible with the fluororesin. Methylmethacrylate is a lower alkyl ester of acrylic acid because it is a lower alkyl ester of methacrylic acid. Witschard's teaching of lower alkyl esters of acrylic acid at col. 8, lines 40-43 includes alkyl (alkyl) acrylates as claimed in claim 15 (and PMMA as claimed in claim 16) because (alkyl) acrylates are acrylates as (alkyl) acrylic acids are acrylic acids.

10. Applicant's argument on page 10 of Amdt. E regarding the rejections of claims 3-7, 12, 14, 17, 19 and 20 that were repeated in paragraph 12 set forth in the previous Office Action mailed May 24, 2004 and the 35 U.S.C. 103 rejection of claim 24 made of record in paragraph 14 set forth in the previous Office Action mailed May 24, 2004 has been fully considered but is not persuasive. Applicant's argument depends upon Applicant's arguments regarding the 35 U.S.C. 103 rejection of claims 1, 2, 8-11, 13, 15, 16, 18 and 21-23 that has been addressed above.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is 571-272-1488. The examiner can normally be reached on Monday-Thursday from 9:00am to 6:00pm and on alternate Fridays from 9:00am to 5:00pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Walter B. Aughenbaugh
12/10/04

WBA


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

12/10/04